

FEB 21 1979 -3 15 PM

INTERSTATE COMMERCE COMMISSION

GUARANTY

Dated as of February 1, 1979

of

ISLAND CREEK COAL, INC.

Filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on February _____, 1979, at _____, recordation number _____.

GUARANTY

GUARANTY dated as of February 1, 1979, from ISLAND CREEK COAL, INC., a California corporation (hereinafter called the Guarantor),

W I T N E S S E T H:

WHEREAS, the Guarantor is the owner of all the issued and outstanding shares of the capital stock of Island Creek Coal Company (hereinafter called the Lessee); and

WHEREAS, the Lessee is a party to a (1) Participation Agreement dated as of the date hereof among the Lessee, the Guarantor, Citizens Fidelity Bank and Trust Company and Suburban Trust Company (hereinafter individually called an Owner and collectively the Owners), Exchange National Bank of Chicago, as owner-trustee (hereinafter called the Owner-Trustee), LaSalle National Bank, as agent (hereinafter called the Agent) and State Farm Life Insurance Company (hereinafter, together with its successors and assigns, called the Investors), (2) Lease of Railroad Equipment dated as of the date hereof between the Owner-Trustee and the Lessee, which is to be assigned by the Owner-Trustee to the Agent pursuant to an Assignment of Lease and Agreement dated as of the date hereof, and (3) Consent and Agreement dated as of the date hereof between the Lessee and the Agent (said Participation Agreement, Lease of Railroad Equipment and Consent and Agreement, as the same may be amended or supplemented, being herein respectively called the Participation Agreement, the Lease and the Consent and collectively called the Agreements, with the defined terms in the Lease being used herein with the same meaning);

NOW, THEREFORE, in consideration of the execution and delivery of the Agreements by the other parties thereto, the Guarantor hereby agrees to and does the following:

1. The Guarantor does hereby unconditionally guarantee, without offset or deduction, (i) the prompt payment when due, taking into consideration any applicable grace periods, whether by acceleration or otherwise, of all amounts payable by the Lessee pursuant to the Agreements, including without limitation the payment of rent,

indemnities and all other amounts under the Lease and all amounts payable by the Lessee pursuant to the Participation Agreement, the guaranty under this clause (i) constituting hereby a guaranty of payment and not of collection, and (ii) that the Lessee will perform punctually, taking into consideration any applicable grace periods, and faithfully each and every duty, agreement and obligation of the Lessee under and in accordance with the terms of the Agreements. The Guarantor does hereby agree that, in the event the Lessee does not or is unable so to pay or perform in accordance with the terms of the Agreements for any reason (including without limitation the liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceedings affecting the status, existence, assets or obligations of, the Lessee, or the limitation of damages for the breach, or the disaffirmance of any of the Agreements, in any such proceeding), it will pay the rents and other amounts due thereunder (it being the intention hereof that the Guarantor shall pay to the Agent, the Owner-Trustee, an Owner or the Owners or any Investor, as the case may be, as a payment obligation directly due from the Guarantor to the Agent, the Owner-Trustee, such Owner or such Investor, as the case may be, under this Guaranty amounts equal to all amounts which the Lessee shall fail to faithfully and properly pay when due under the Agreements) or otherwise provide for and bring about promptly when due (taking into consideration any applicable grace period) such payment and the performance of such duties, agreements, covenants and obligations of the Lessee under the Agreements. The obligations of the Lessee hereby guaranteed are hereinafter referred to as the "Obligations".

2. Without limiting the generality of clause (i) of section 1 hereof, the Guarantor specifically agrees that it shall not be necessary or required, and that the Guarantor shall not be entitled to require, that the Agent, the Owner-Trustee, either Owner or any Investor file suit or proceed to obtain or assert a claim for personal judgment against the Lessee for the Obligations or make any effort at collection of the Obligations from the Lessee or foreclose against or seek to realize upon any security now or hereafter existing for the Obligations or file suit or proceed to obtain or assert a claim for personal judgment against any other party liable for the Obligations or make any effort at collection of the

Obligations from any such other party or exercise or assert any other right or remedy to which any of them is or may be entitled in connection with the Obligations or any security or other guaranty therefor or assert or file any claim against the assets of the Lessee or other person liable for the Obligations, or any part thereof, before or as a condition of enforcing the liability of the Guarantor under this Guaranty or requiring payment of said Obligations by the Guarantor hereunder or at any time thereafter. Fulfillment by the Lessee or the Guarantor of any of the Obligations shall dispose of any claim hereunder with respect to and to the extent of such of the Obligations fulfilled, provided, however, that unless and until all the Obligations shall have been performed, the Guarantor shall not claim or enforce any right of subrogation, reimbursement or indemnity against the Lessee, or any other right or remedy which might otherwise arise on account of any payment made by it or act or thing done by it on account of or in accordance with this Guaranty. The Guarantor does hereby waive and relinquish, so far as it may lawfully and effectively do so, the benefit and advantage of any and all valuation, stay, appraisal, extension or redemption laws which, but for this waiver and relinquishment, might be applicable to any sale made under any judgment, order or decree of any court or otherwise based on this Guaranty or the Lease or the security interest of the Agent in the Units.

3. This Guaranty shall not be deemed to create any right in any person except as provided hereinbelow nor be construed in any respect to be a contract in whole or in part for the benefit of any other person except the Agent, the Owner-Trustee, the Owners and the Investors and their respective successors and assigns. The Guarantor specifically agrees that it shall not be necessary or required in order to enforce the obligations of the Guarantor hereunder that there be, and the Guarantor specifically waives: notice of the acceptance of this Guaranty and of the performance or nonperformance of any of the Agreements; demand of payment from the Lessee except to the extent required by the respective Agreements; presentment for payment upon the Lessee or the making of any protest; notice of the amount of the Obligations outstanding at any time; notice of nonpayment or failure to perform on the part of the Lessee; and any other circumstance which might otherwise constitute a legal or equitable defense or discharge of a guarantor.

4. The obligations of the Guarantor under this Guaranty shall be absolute and unconditional and shall remain in full force and effect until the Lessee shall have fully and satisfactorily discharged the Obligations and shall not be released or discharged for any reason whatsoever, including without limitation, the following: (i) the waiver by the Agent, the Owner-Trustee, either Owner or any Investor, or the successors or assigns of any of them, of the performance or observance by the Lessee of any of the agreements, covenants, terms or conditions contained in any of the Agreements, or any default thereunder, (ii) the extension of the time for payment by the Lessee of any rents or other sums or any part thereof owing or payable under any of the Agreements, or of the time for performance by the Lessee of any other obligations under or arising out of or on account of any of the Agreements, or the extension or renewal of any of the Agreements, (iii) any failure, omission or delay of the Agent, the Owner-Trustee, either Owner or any Investor to enforce, assert or exercise any right, power or remedy conferred on the Agent, the Owner-Trustee, such Owner or such Investor in any of the Agreements, or any action on the part of the Agent, the Owner-Trustee, either Owner or any Investor granting extension or indulgence in any form, (iv) any transfer or assignment by the Lessee, any Investor, the Agent, the Owner-Trustee or either Owner of its interest, or any part thereof, in and to the Lease or any Unit, (v) any compromise, settlement, release, renewal, extension, indulgence, change in or waiver or modification of any of the Obligations or the release or discharge of the Lessee from the performance or observance of any of the Obligations by operation of law, (vi) any assignment or mortgaging or the purported assignment or mortgaging of all or any part of the interest of the Lessee in the Agreements or in the Units or (vii) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, the Lessee or the disaffirmance of any of the Agreements in any such proceeding.

5. This Guaranty (i) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof; (ii) may be executed in several counterparts, but the counterpart marked Original Counterpart delivered to the Agent shall be deemed to be the original counterpart and the other counterparts shall be deemed to be duplicates thereof; (iii) shall inure to the benefit of the Agent, the Owner-Trustee, each Owner, each Investor and their respective successors and assigns and be binding upon the successors and assigns of the Guarantor; (iv) may be modified only by an instrument in writing signed by the duly authorized representative of the party to be bound; and (v) shall in all respects be governed by, and construed in accordance with, the laws of the State of California.

ISLAND CREEK COAL, INC.

by *R.B. Casriel*
R.B. Casriel, Vice
President and Treasurer

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On February 15, 1979, before me, the undersigned, a Notary Public in and for said State and County, personally appeared R. B. Casriel, known to me to be the Vice President and Treasurer of the corporation that executed the within Guaranty, known to me to be the person who executed the within Guaranty in the name and on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within Guaranty pursuant to its By-laws and a resolution duly adopted by its Board of Directors.

WITNESS my hand and official seal.



(Notarial seal)

Sharon C. Fierro
Notary Public in and for said State and County